

**ANDOVER BOARD OF HEALTH**  
**Minutes**  
**December 16, 2013, 6:00 P.M.**  
**CD&P First Floor Conference Room**  
**36 Bartlet Street**

The Board of Health Meeting was called to order at 6:04 p.m. Present were Ms. Katherine Kellman, Vice-Chairman, Gopala K. Dwarakanath, M.D., Clerk and Mr. Thomas G. Carbone, Director of Public Health.

Ms. Candace Martin, Chairman, was not in attendance this evening due to a scheduling conflict, but participated via phone. The following guidance to allow the remote participation was provided by Mr. Carbone:

Ms. Kellman will need to chair the meeting.

At the beginning of each hearing, Ms. Kellman will need to do the following:

- Announce that Ms. Martin is participating by telephone due to geographic distance, due to work related travel that would interfere with her ability to be physically present.
- Ensure that both Ms. Martin and the people in the room are able to hear each other.
- All votes must be taken by roll call.

**I. Approval of Minutes**

- **November 18, 2013**

*Motion by Ms. Martin, seconded by Ms. Kellman, to approve the Minutes of November 18, 2013.*

*Vote taken: Ms. Martin, Aye, Ms. Kellman, Aye, Dr. Dwarakanath, Aye. Unanimous approval.*

**II. Appointments & Hearings**

- **6:00 p.m. –Attorney James Creed for 5 Oak Street – Show Cause Hearing to Repair a Failed Septic System (Continued)** – Attorney Creed was not in attendance as the Chair waived his need to appear. Mr. Carbone informed the Board that Attorney Creed was expecting to take control of the property by January 1, 2014. Mr. Carbone had spoken with Chairman Martin and suggested that the Board schedule Attorney Creed for the February 10, 2014 Board of Health Meeting. By that time, Attorney Creed should have a plan ready to address the failed system.

*Motion by Ms. Kellman, seconded by Ms. Martin, to continue the Show Cause Hearing to the February 10, 2014 Board of Health Meeting. Vote taken: Ms. Martin, Aye, Ms. Kellman, Aye, Dr. Dwarakanath, Aye. Unanimous approval.*

Ms. Martin informed Daryl and Brenda Afshin that she was participating by telephone due to geographic distance and that her need to be out of town would interfere with her ability to be physically present. She confirmed that all attendees could hear her.

- **6:05 p.m. – Daryl and Brenda Afshin for 7 (a/k/a 7R) Lowell Junction Road – Show Cause Hearing for Failure to Connect to Sewer and Condemnation Hearing** – Mr. Carbone explained to the Board that in 2001 a Title V inspection was performed for the sale of the property. On the Title V report, there were two boxes checked – Conditional Pass and Needs Further Evaluation. The Conditional Pass was checked off because the system has a metal septic tank, and the code says that that should be taken care of quickly because metal tanks rust and deteriorate, causing a safety hazard. Since the property is near a river and tributary to the water supply, the Health Director at the time, Everett Penney, Jr., required the system to be upgraded. In the meantime, Gregory Circle became an approved subdivision in 2006 and was to be served by sewer. In 2008 when the Afshins received an ORDER from Mr. Carbone to upgrade their septic system, they said they wanted to connect to sewer that would be installed for Gregory Circle. Since sewer would become available because of the subdivision, the Afshins were given time to connect to that sewer line.

Mr. Afshin stated that he wanted to connect to sewer but there are questions about the location of the easements. There are issues with the electric and water. They have been having trouble with the developer of the subdivision and Mr. Afshin described several legal issues as well. The Afshins were looking to have more time to get a Drain Layer and get the connection to the sewer completed. Mr. Carbone stated that Ms. Jacki Byerley, Planner, has contacted the developer to get clarity about the easements, but was not sure if she heard back yet. He will follow up to check into some of the legal issues and to see if he can get an As-built from the Planning Board to compare it to the plan that was approved.

Ms. Martin stated that so many years have gone by, and from 2008 to this point some of the notices have not been responded to. The Board wants the Afshins to give it an established written plan with a resolution date for when the sewer connection or septic upgrade will take place. Mr. Carbone stated that when looking at the town GIS map, he can see the utility easement on the map. Mr. Afshin stated that the map shows one thing, but the easements are not recognized on the deeds. Ms. Martin informed Mr. Afshin that he should get quotes from several Drain Layers since the one he called has not been able to accommodate him. Mr. Carbone provided a list of drain layers to Mr. Afshin.

Ms. Martin stated that there have been a number of attempts to solve this problem since 2008 and now there will need to be defined compliance plans in place by January 8, 2014. If this continues much longer, the Board may have to condemn the house. Either the Afshins live in the home in compliance, or fix the system. Mr. Afshin stated that they are responsible, accountable people who have been put into a bad situation and that he will get three estimates from Drain Layers to try to get the sewer connection going. Mr. Carbone explained that they may need an engineer and plans because of the need for a pump. Mr. Carbone further explained that upgrading the septic can be more costly, but may be the best option if the Afshins cannot get the

legalities settled. The tank is metal and metal tanks rust, so there is probably not much left to the tank by now.

*Motion by Ms. Kellman, seconded by Ms. Martin, to continue the Show Cause Hearing for Failure to Connect to Sewer and Condemnation Hearing to the regularly scheduled Board of Health Meeting of January 16, 2014, with a requirement that a plan is provided by January 8, 2014, or documentation on why the Afshins cannot connect. Vote taken: Ms. Martin, Aye, Ms. Kellman, Aye, Dr. Dwarakanath, Aye. Unanimous approval.*

### III. Discussion

- **Sign Home Health VNA Agreement** – Mr. Carbone explained that this is the same agreement we enter into yearly at the same cost and requested that the Board of Health sign the Agreement. This agreement allows the Health Division to get help if a nurse is out long term. Since Ms. Martin is out of Town, the Board allowed Mr. Carbone to sign for her in her absence.

*Motion by Ms. Kellman seconded by Dr. Dwarakanath, to sign the Home Health VNA Agreement, and authorize Mr. Carbone to sign on Ms. Martin's behalf. Vote taken: Ms. Martin, Aye, Ms. Kellman, Aye, Dr. Dwarakanath, Aye. Unanimous approval.*

- **Meeting with Temple Emanuel concerning Taste of the Merrimack Valley Event (Not on Agenda)** – Mr. Carbone informed the Board that the Temple had concerns with the cost of the Temporary Food Permits that had to be taken out for this event. Mr. Carbone met with a representative of the Temple to discuss this issue, and Mr. Carbone suggested that perhaps a flat fee instead of paying for individual permits might be an alternative. Mr. Carbone stated that it takes about eight hours of staff time to process the permits and do the inspections. Dr. Dwarakanath stated that he would like consistency when these types of events take place. Mr. Carbone explained that there have been other yearly events such as this and the vast majority of the Vendors are from Andover, so they can use their Catering Licenses, but there have been some from out of Town who have to pay for a Temporary Food Permit. Usually these events generate about \$400.00 in fees. Mr. Carbone did not want them to walk away dissatisfied with the process and then decide not to do the event. Ms. Martin stated that she would not want an event to be canceled because of the cost. She stated that she would be comfortable with the Board's decision after she left the remote participation.

*Ms. Martin left the remote participation in the meeting at 6:46 p.m.*

Mr. Carbone stated that the representative told him that other communities do not regulate the same way as Andover does. Dr. Dwarakanath had a concern that if a flat rate is decided upon, if one event is larger than another, we would lose out on some of the cost. Ms. Kellman suggested that Mr. Carbone could use his judgment to make an offer to them and then retrofit that judgment to other events. Mr. Carbone explained

also that most of these events are limited by space, so usually there are fifteen to twenty Vendors at these events. Mr. Carbone did suggest to the representative that we could shrink down that time and cost if he submitted paperwork in bulk. Some of the other events in Town, such as Andover Days, have any Vendors who will be serving food contact the Health Division individually and that is what takes up so much time.

Dr. Dwarakanath stated that Mr. Carbone should have a discussion with the people from Temple Emanuel and make a decision based on his judgment. Ms. Kellman agreed and stated that other events could then be decided upon based on the decision concerning this event. Mr. Carbone stated that he would talk with them and decide what to do, making sure that the food being served is safe.

**IV. Old Business**

- N/A

**V. Subdivision Definitive Plans**

- N/A

**VI. Plan Review**

- **DWRP – Variances/Local Upgrade Approval**
  - N/A

**VII. Staff Reports**

**A. Director's Reports:**

- **Important Dates:**
  - January 13, 2013 at 6 p.m. – Board of Health Meeting
  - February 10, 2013 at 6 p.m. – Board of Health Meeting
  - March 10, 2013 at 6 p.m. – Board of Health Meeting

**B. Nurses' Report for November, 2013** – The Nurses' Report for November, 2013 were for informational purposes only.

**C. Inspectors' Reports for November, 2013** – The Inspectors' Reports for November, 2013 were for informational purposes only.

**VIII. Board Member Reports**

- N/A

**IX. Adjournment**

*Motion by Ms. Kellman, seconded by Dr. Dwarakanath, to adjourn at 6:56 p.m. Unanimous approval.*